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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,484	04/12/2004	Joseph M. Asher	069547.0157	3028
5073	7590	12/01/2006	EXAMINER COLBERT, ELLA	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			ART UNIT 3694	PAPER NUMBER

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,484	Applicant(s) ASHER ET AL.	
	Examiner Ella Colbert	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-47 are pending. Claim 1 has been amended in this communication filed 08/28/06 entered as RCE.
2. Applicants' arguments are considered moot in view of the new ground(s) of rejection.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/28/06 has been entered.

Title Objection

4. The title should be changed to "A LOTTERY AND AUCTION BASED TOURNAMENT ENTRY EXCHANGE PLATFORM" since the claims are method claims.

Specification

5. The Specification is objected to because Page 9, line 24 recites "can be ... amount. They payout ...". This line would be better recited as "can be ... amount. The payout ...". Page 13, lines 11 and 27 recite "used herein, does ... a competitions. Rather, an entry ... price may ... set. System 10 ... receive, from a". These lines would

Art Unit: 3694

be better recited as "used herein, does ... a competition. Rather, an entry ... price may ... set. System 10 ... receive, from a". Correction is required. See MPEP § 608.01(b).

Drawings

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figure 2, reference character "66". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Figure 2 reference sign "50". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being

Art Unit: 3694

amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "16" in Figure 2 has been used to designate both "Exchange System Platform" and "Betting system platform"; reference character "34" has been used to designate both "telephone operators" and "telephone operator"; reference character "36" has been used to designate both "Website(s)" and "Website"; and reference character "46" has been used to designate both "Internet Betting Provider" and "Internet exchange provider". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Art Unit: 3694

7. Claims 6, 9, 25, 26, 29, 36, and 41 are objected to because of the following informalities: Claim 29 recites “distributed after commencement of the trading ...”. This limitation would be better recited as “distributed after the beginning of the trading” or “distributed after the start of the trading”. Claim 36 recites “computer system, the step of determining at least one winning entry at at least one”. This claim limitation would be better recited as “computer system, the step of determining at least one winning entry at least one”. Appropriate correction is required.

Claim 6 recites “The method of claim 1, further comprising, using the computer system, the step executing ...”. Claim 6 would be better recited as “The method of claim 1, further comprising, the step of executing ...”.

Claims 9, 25, 26, 36, and 41 have a similar problem.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: After the first claim limitation there is not a step which includes “one or more activities”. Suggestion: making a determination that the at least one entry of the first set of entries is a winning entry based on the occurrence of an event associated with the one or more activities; executing a first initial distribution of the first set of entries using a computer system; (a step is missing which uses “the first initial distribution”). The step can either be here or

after "conducting trading". Another step is needed once the trading has been conducted between the buyer and seller. The trade should be completed.

Claim 1 recites the limitation "determining a winning entry based on the occurrence" in the first claim limitation. This claim limitation should recite "determining a winning entry based on an occurrence". There is insufficient antecedent basis for this limitation in the claim.

Suggestion for the preamble of claim 1 due to the In re Lundgren decision. "A computer-implemented method for conducting an exchange activity between a buyer and a seller, the method comprising:". The second step should recite "executing a first initial distribution of the first set of entries using a computer system;" and the next step should begin with "conducting trading ...".

Claims 2-47 are also rejected because of their dependency on a rejected base claim.

It is unclear from Applicants' specification, claims, and drawings how Applicants' invention differs from any lottery, betting or wagering activity. Applicants' are respectfully requested to clarify the difference in the claim limitations because the claims as written are not getting across what Applicants' consider to be their invention.

A prior art rejection has not been given because the claims have many issues which need to be resolved in order to determine Applicants' patentable subject matter.

Inquiries

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741.

Art Unit: 3694

The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 24, 2006


ELLA COLBERT
PRIMARY EXAMINER